

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 EUREKA DIVISION

JAMES ALLEN TATE,

No. 1:14-CV-0251 NJV

Plaintiff,

ORDER TO SHOW CAUSE RE  
 MOTION FOR ATTORNEY'S FEES

v.

CAROLYN W. COLVIN, ACTING  
 COMMISSIONER OF SOCIAL SECURITY,

(Docket No. 22)

Defendant.

Plaintiff James Allen Tate filed this action on January 15, 2014, seeking judicial review of an administrative law judge decision denying his application for disability benefits pursuant to Title II of the Social Security Act and for supplemental security income benefits under Title XVI of the Social Security Act. On January 13, 2015, the court entered an order granting in part and denying in part Plaintiff's motion for summary judgment and granting in part and denying in part Defendant's motion for summary judgment. (Doc. 19.) Plaintiff now seeks attorney's fees under the Equal Access to Justice Act, 28 U.S.C. Section 2412 (d) ("the Act"). (Doc. 22.)

Under subsection (d)(1)(B) of the Act, "[a] party seeking an award of fees and other expenses shall, within thirty days of final judgment in the action, submit to the court an application for fees and other expenses which shows that the party is a prevailing party and is eligible to receive an award under this subsection." In the present case, although the court entered final judgment on January 13, 2015 (Doc. 20), Plaintiff did not file his motion until March 16, 2015. It thus appears that Plaintiff's motion may be untimely.

Pursuant to Civil Local Rule 54-5 governing motions for attorney's fees, "[c]ounsel for the respective parties must meet and confer for the purpose of resolving all disputed issues relating to

1 attorney's fees before making a motion for award of attorney's fees." Subsection (b) of Civil Local  
2 Rule 54-5 further provides that the motion for attorney's fees must be supported by declarations or  
3 affidavits containing a statement that counsel have met and conferred in an attempt to resolve such  
4 disputed issues. Here, Plaintiff's motion does not appear to be supported by such a declaration or  
5 affidavit.

6 Accordingly, Plaintiff is HEREBY GRANTED fourteen (14) days from the date of this order  
7 within which to show cause why this motion should not be denied as untimely and/or for failure to  
8 comply with the requirements of the Civil Local Rules. Defendant is granted seven (7) days after  
9 the filing of Plaintiff's papers to file a response. Plaintiff is granted seven (7) days thereafter to file  
10 a reply.

11 IT IS SO ORDERED.

12  
13 Dated: April 15, 2015

  
MANDOR J. VADAS  
United States Magistrate Judge